IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 12629 of 2004

Between:
1 Yeleti Sathibabu, S/o. Ramji,
R/o. Katravulapalli (V), Jaggampeta Mandal, E.G. District.
2 Yeleti Suryaprabhavathi, S/o. Late Ramji,
R/o. Katravulapalli (V), Jaggampeta Mandal, E.G. District.
3 Gokina Lakshmi, S/o. Ramji,
R/o. Katravulapalli (V), Jaggampeta Mandal, E.G. District.
4 Yeleti arundhati, D/o. Narayana Murthy,
R/o. Katravulapalli (V), Jaggampeta Mandal, E.G. District.
..... PETITIONERS

AND

1 The Secretary, A.P. Bhoodhan Yagna Board,
Gandhi Bhavan, Hyderabad.
2 The District Collector, East Godavari at Kakinada.
3 Revenue Divisional Officer, Peddapuram, E.G. District.
4 Mandal Revenue Officer, Gandepalli Mandal, E.G. District.
.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the 1st respondent in issuing the impugned Notice Ref.No.E/89/2002, dt.9-7-2004 as illegal, null and void and violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings including dispossession of the petitioners from their lawful possession and enjoyment in respect of Sy.No.128 an extent of Ac.15.67 cents of Yerrampalem village, Gandepalli Mandal, E.G. District.

Counsel for the Petitioners: MR.CH.DHANAMJAYA

Counsel for the Respondent No.1: MR.C. RAVINDRANATH,

Standing Counsel

Counsel for the Respondent Nos.2 to 4: GP FOR REVENUE

The Court made the following:

ORDER:

Aggrieved by a letter dated 9.7.2004 of the first respondent to the fourth respondent, the petitioners filed the present writ petition seeking a declaration that the action of the first respondent in addressing the said letter as illegal and arbitrary. They also seek a direction to the respondents to drop all further proceedings pursuant to the said impugned letter.

The petitioners are residents of Katravulapalli village. They are owners of lands covered by patta Nos.33 and 34 of Yerrampalem village in East Godavari District admeasuring Acs.15.33. It appears the father and grand father of petitioners-1, 2 and 4 donated considerable extents of lands comprised Survey No.14 of Ramavaram village, Survey No.128 of Yerrampalem village and Survey No.134/3 of Katravulapalli village to A.P. Bhoodan Yagna Board, the first respondent. After death of the predecessors in title, the petitioners made a proposal to exchange the land in Rajampudi village admeasuring Acs.15.67 instead of the land admeasuring Acs.15.67 in Survey No.128 of Yerrampalam village, which was earlier donated/gifted by the grand father and father to the first respondent. The proposal was accepted and the exchange was notified in A.P. Gazette dated 17.8.2000. It is also stated in the writ affidavit that after accepting the exchange of land in Rajampudi village, the same was assigned by the first respondent to four landless poor persons.

It appears that Ryotu Cooli Sangham gave a representation to the first respondent alleging that the petitioners had already sold away land admeasuring Acs.15.67 in Survey No.474 of Rajampudi village and that the persons, to whom the land was assigned, are not landless poor persons. Acting on such representation, the first respondent issued a notice dated 8.4.2002 to the first petitioner calling for explanation. The first petitioner sent an explanation on 12.6.2002 requesting to conduct enquiry into the matter. The Mandal Revenue Officer, Jaggampet conducted enquiry allegedly without notice to the petitioners. Subsequently, the first respondent addressed the Mandal Revenue Oficer on 9.7.2004 informing that the

first respondent is considering to cancel the exchange proposal and action is being taken to restore the lands of Yerrampalem village. The Mandal Revenue Officer was also requested to take the land in Survey No.128 of Yerrampalem village into custody of the fourth respondent.

This Court while admitting the writ petition on 26.7.2004 ordered *status quo* with regard to possession for a period of two weeks. Subsequently, the petitioner filed WPMP No.19196 of 2004 praying this Court to extend the interim orders. As the counter affidavit is filed by the first respondent, the matter was heard finally with the consent of the learned Counsel for the petitioners, learned Counsel for the first respondent and learned Additional Government Pleader for Revenue (General).

In the counter filed by the first respondent, the allegation that the petitioners were not issued any notice, by the Mandal Revenue Oficer at the time of enquiry, is not denied. It is also not denied that so far no decision is taken by the first respondent to cancel the exchange proposal, which was already notified in the Gazette in August, 2000. It is also stated that though the first respondent initiated action on representation given by Ryotu Cooli Sangham, no complaint from the landless poor persons was received in relation to the land in Survey No.474 of Rajampalli village, which was assigned to landless poor persons. It is admitted that after receiving the proceedings of the Board accepting exchange, the petitioners already sold the land to third parties without any such right.

The submission of the learned counsel for the petitioners that when once the exchange is accepted and notified in the Gazette, the Board is competent to rescind from such decision only within a period of two months does not strictly fall for consideration at this stage. By impugned letter, the first respondent requested the fourth respondent to take custody of the land in Survey No.126 of Yerrampalli village pending further action by the first respondent for cancellation of the exchange proposal. Even according to the first respondent, there is no decision as such. The Board can take such decision only in accordance with law after giving notice to the petitioners with regard to the allegations which are now found in the counter affidavit of the first respondent. Even if the Board initiates such action, there is no power vested in the Board either to direct the fourth respondent to take custody of the land or to enter the land especially when a person is in possession of the land pursuant to the acceptance of the exchange proposal. Therefore, the impugned order insofar as the

same directs the Mandal Revenue Officer to take custody of the land in Yerrampalem village is unsustainable. Therefore, I reject the contentions of the learned Standing Counsel for the first respondent as well as the learned Assistant Government Pleader and hold that the direction issued to the fourth respondent to take custody of the land is impermissible in law.

For the above reasons, this writ petition is disposed of, giving liberty to the first respondent to issue notice to the petitioners, call for explanation and pass appropriate orders under the Andhra Pradesh Bhoodan and Gramdan Act, 1965. Till such action is initiated by the first respondent, the fourth respondent is not entitled to take custody of the land.

The writ petition, with the above observations and directions, is disposed of. No order as to costs.

September 22, 2004. **V.V.S. RAO, J**

Note:
Issue CC by
25.09.2004.
(B/o)
YS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To
1 The Secretary, A.P. Bhoodhan Yagna Board,
Gandhi Bhavan, Hyderabad.
2 The District Collector, East Godavari at Kakinada.
3 The Revenue Divisional Officer, Peddapuram, E.G. District.
4 The Mandal Revenue Officer, Gandepalli Mandal, E.G. District.
5 Two CCs to the Government Pleader for Revenue,
High Court Buildings, Hyderabad (O.U.T)
6 Two CD copies.